

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 8/9/2016	(3) CONTACT/PHONE Airlin M. Singewald, Senior Planner / (805) 781-5198	
(4) SUBJECT Continued hearing to consider an appeal by 1736PAC, LLC of the Planning Department Hearing Officer's denial of a request for a Minor Use Permit / Coastal Development Permit (DRC2015-00073) to waive the 100-foot distance requirement and allow an existing 4-bedroom single family residence, located at 1736 Pacific Avenue in Cayucos, to be used as a residential vacation rental; exempt from CEQA. District 2.			
(5) RECOMMENDED ACTION It is recommended that the Board adopt the resolution denying the appeal and affirming the Planning Department Hearing Officer's denial of the project.			
(6) FUNDING SOURCE(S) Department Budget	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT { } Consent { } Presentation { x } Hearing (Time Est. <u>45 minutes</u>) { } Board Business (Time Est. <u> </u>)			
(11) EXECUTED DOCUMENTS { x } Resolutions { } Contracts { } Ordinances { } N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: { } 4/5 Vote Required { x } N/A	
(14) LOCATION MAP Attached	(15) BUSINESS IMPACT STATEMENT? N/A	(16) AGENDA ITEM HISTORY { } N/A Date: <u>6/21/16</u>	
(17) ADMINISTRATIVE OFFICE REVIEW Lisa M. Howe			
(18) SUPERVISOR DISTRICT(S) District 2			

County of San Luis Obispo



TO: Board of Supervisors

FROM: Planning and Building / Airlin M. Singewald, Senior Planner

VIA: Ellen Carroll, Planning Manager / Environmental Coordinator

DATE: 8/9/2016

SUBJECT: Continued hearing to consider an appeal by 1736PAC, LLC of the Planning Department Hearing Officer's denial of a request for a Minor Use Permit / Coastal Development Permit (DRC2015-00073) to waive the 100-foot distance requirement and allow an existing 4-bedroom single family residence, located at 1736 Pacific Avenue in Cayucos, to be used as a residential vacation rental; exempt from CEQA. District 2.

RECOMMENDATION

It is recommended that the Board adopt the resolution denying the appeal and affirming the Planning Department Hearing Officer's denial of the project.

DISCUSSION

Background

On April 8, 2016, the Planning Department Hearing Officer heard and denied a request by 1736PAC, LLC for a Minor Use Permit/ Coastal Development Permit to allow an existing 4-bedroom single family residence to be used a residential vacation rental. The minor use permit sought to waive Coastal Zone Land Use Ordinance Section 23.08.165(C)(2), which states that any new vacation rental in Cayucos must be located at least 100 feet from an existing vacation rental. The waiver was necessary because the existing residence at 1736 Pacific Avenue is within 80 feet of two existing vacation rentals (see Figure 1 on next page).

The Coastal Zone Vacation Rental Ordinance establishes rules to ensure that vacation rentals in Cayucos, Cambria, and Avila Beach are operated in a manner that is compatible with neighboring homes. This includes a location standard which limits the concentration of vacation rentals in residential neighborhoods. This standard can be waived through the minor use permit process, when applicants are able to show that their property has unique characteristics which help to mitigate concerns (e.g. noise, parking, and traffic) associated with a concentration of vacation rentals in residential neighborhoods.

In support of the waiver request, the applicant contends that the following factors distinguish the project site from others in Cayucos: 1) since the existing home is located on a bluff adjacent to the shoreline, tenants will focus their recreational activities on the beach where noise will not disturb neighbors; 2) the existing single family residence has an interior courtyard, which will help contain outdoor noise associated with the vacation rental; 3) the site has adequate onsite parking and access on Pacific Avenue; 4) the surrounding residential neighborhood is not overly dense; and 5) the house has unique historical and architectural interest since it was designed by a well-known local architect.

In denying the project, the Hearing Officer determined that these factors did not make the project site unique or mitigate the type of neighborhood character impacts that the 100 foot location standard seeks to address. The Hearing Officer was particularly concerned about the precedent of approving a waiver primarily on the basis of an oceanfront location. Approving this modification request and others like it could potentially transform the character of oceanfront

neighborhoods from residential areas to primarily visitor-serving areas, undermining the intent of the ordinance to preserve residential neighborhoods.



Figure 1: Proximity to Existing Vacation Rentals

As shown in Figure 1, the concentration of vacation rentals in this neighborhood already exceeds the limit set by the ordinance, with a number of existing vacation rentals located closer than 100 feet from each other. This is because, when the vacation rental ordinance was adopted in 2003, it exempted existing legally established vacation rentals from the location standard. Community members have expressed concerns that the existing concentration of vacation rentals is already impacting the residential character of Cayucos's neighborhoods, and that any waivers or modifications made to the ordinance would further diminish the quality of life enjoyed by permanent residents living in Cayucos.

At the February 3, 2016 Cayucos Citizens Advisory Council meeting, Cayucos residents described some of the deleterious effects that vacation rentals have on neighborhoods. Concerns included noise, parking overflow, and regular turnover of visitors who are not familiar with the residential neighborhoods where they are lodging. The advisory council also felt that this property wasn't different than any other oceanfront home on Pacific Avenue and was concerned about setting a precedent of waiving the distance standard for any other oceanfront property in Cayucos. On an 8 to 3 vote, the advisory council recommended denial of the request.

The attached April 8, 2016 Planning Department Hearing staff report goes into greater detail on the purpose of the vacation rental ordinance, the location standard, and the minor use permit process.

Appeal

The applicant filed an appeal of the Hearing Officer's decision on April 15, 2016. The appeal states that the Hearing Officer's denial of the minor use permit application is "contrary to requirements to provide and protect public access to the coast via short-term rentals which are a type of visitor-serving accommodation." Although the appeal doesn't cite the reasons why the waiver should be approved, staff's analysis below describes and responds to previous information submitted by the applicant in support of the waiver.

Overall Appeal Issue: Denial of the minor use permit application is "contrary to requirements to provide and protect public access to the coast via short-term rentals which are a type of visitor-serving accommodation."

Staff Response: This appeal issue alludes to policies in the County's Local Coastal Plan (LCP), which encourage visitor-serving facilities. Of these policies, the most relevant is Policy 1 (Recreation Opportunities) in the Recreation and Visitor-Serving Facilities chapter of the County's Coastal Plan Policies document. This policy states "Coastal recreational and visitor-serving facilities, especially lower-cost facilities, shall be protected, encouraged and where feasible provided by both public and private means." However, this policy goes on to state that "Visitor-serving facilities include all lodging establishments included in the definition of Hotels, Motels in Chapter 7 of Framework for Planning of the Land Use Element and Local Coastal Plan." Vacation rentals are considered a residential use and are not included in the definition of Hotels, Motels. Therefore, this policy does not apply to residential vacation rentals.

Although vacation rentals are not covered under the recreation and visitor-serving chapter of the Coastal Plan policies, they do play a major role in providing visitor-serving accommodations along the coast. The vacation rental ordinance recognizes this by allowing for short-term rentals of homes in coastal communities at limited concentrations. The requested waiver would result in a higher concentration of vacation rentals than what's allowed by the ordinance and could degrade the quality of life enjoyed by neighboring fulltime residents.

Applicant's Justification for a Waiver #1: Since the existing home is located on a bluff adjacent to the shoreline, tenants will focus their recreational activities on the beach where noise will not disturb neighbors.

Staff Response: While the existing home's proximity to the shoreline could help reduce the amount of noise impacting neighboring residents, it is not guaranteed and during evening hours, when neighbors would be most sensitive to noise disturbance, partying and noisy activities would likely take place in the residence and could spill over to the front driveway area.

The minor use permit process allows applicants to request a waiver based on unique project-specific factors that were not contemplated with the adoption of the communitywide location standard for vacation rentals. When the vacation rental ordinance was first adopted (in 2003) and later updated (in 2013), the decision-makers were well aware of the prevalence of vacation rentals along the shoreline, and they could have exempted such properties from the location standard had they believed that higher concentrations of vacation rentals were acceptable in oceanfront neighborhoods. However, the decision-makers decided instead to apply the same location standard to all properties in Cayucos including oceanfront lots.

Finally, the existing home's oceanfront location is not a unique characteristic that sets it apart from other homes in Cayucos. The Department of Planning and Building receives regular inquiries from owners of oceanfront lots in Cayucos and Cambria seeking business license clearance for vacation rentals. If this project is approved for the reasons given by the applicant, it would set a precedent for approving other vacation rentals in over-concentrated areas on the coast.

Applicant's Justification for a Waiver #2: The existing single family residence has an interior courtyard, which will help contain outdoor noise associated with the vacation rental.

Staff Response: While the interior courtyard could help reduce the amount of noise that spills over on neighboring homes, there is no guarantee that partying and noisy activities will be limited to the courtyard. Also, a concentration of late night noise and partying in the courtyard could significantly impact the immediately adjacent neighbor to the south.

Applicant's Justification for a Waiver #3: The site has adequate onsite parking and access on Pacific Avenue.

Staff Response: This does not make the project site unique. There are hundreds of homes on Pacific Avenue that could make the same claim. Every new vacation rental would be required to show adequate onsite parking.

Applicant's Justification for a Waiver #4: The surrounding residential neighborhood is not overly dense.

Staff Response: With homes built out to narrow setbacks on 40-foot wide, 3,500 square-foot lots, the density of this neighborhood, which is about double the current standard for a residential single family neighborhood, is very typical of Cayucos and is not unique.

Applicant's Justification for a Waiver #5: The house has unique historical and architectural interest since it was designed by a well-known local architect.

Staff Response: While this is a factor that may make the house unique and an attractive vacation rental, it does nothing to mitigate impacts (e.g. noise, parking, traffic) on neighboring residents.

OTHER AGENCY INVOLVEMENT/IMPACT

The project was referred to Coastal Commission and the Cayucos Citizens Advisory Council. As described above, the advisory council recommended denial of the request for a vacation rental. In addition, County Counsel has reviewed and approved the attached resolution with findings.

FINANCIAL CONSIDERATIONS

This project is in the Coastal Zone and is not subject to an appeal fee. This appeal was processed using department allocated general fund support.

RESULTS

Denying the appeal and affirming the decision of the Planning Department Hearing Officer would be a denial of the distance waiver request and would not allow for the existing home at 1736 Pacific Avenue in Cayucos to be used as a residential vacation rental. This action would be consistent with the countywide goals of promoting well-governed and livable communities. Upholding the appeal would grant the distance waiver and allow the existing home to be used as a residential vacation rental.

ATTACHMENTS

Attachment 1 - Resolution and Findings
Attachment 2 - 1736PAC, LLC Appeal Form; April 15, 2016
Attachment 3 – Planning Department Hearing Staff Report; April 8, 2016
Attachment 4 - Planning Department Hearing Minutes; April 8, 2016
Correspondence 1- Posted June 20, 2016
Correspondence 2- Posted June 20, 2016
Correspondence 3- Posted June 20, 2016